

FILED FOR RECORD
BENNY C. LISTER
CLERK OF CIRCUIT COURT
GULF COUNTY, FLORIDA
RECORD VERIFIED
88 OCT -3 PM 4: 35

SECOND AMENDMENT TO THE PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS OF BARRIER DUNES BOOK 128 PAGE 118-176
Barry Clark

THIS Second Amendment to the Protective Covenants, Conditions and Restrictions of Barrier Dunes (the "Second Amendment") is made and executed this 23rd day of January, 1988, by Barrier Dunes Development Corporation, a Florida corporation (hereinafter referred to as the "Declarant").

WITNESSETH:

WHEREAS, the Declarant subjected certain property located in Gulf County, Florida, to certain easements, restrictions, covenants and conditions pursuant to those Protective Covenants, Conditions and Restrictions of Barrier Dunes, dated July 20, 1985, and recorded in Official Records Book 107, Page 227-249 of the Public Records of Gulf County, Florida (hereinafter referred to as the "Protective Covenants"); and

WHEREAS, the Declarant amended the Protective Covenants pursuant to a First Amendment to Protective Covenants, Conditions and Restrictions of Barrier Dunes dated January 10, 1986, and recorded in Official Records Book 110, Page 805-823 of the Public Records of Gulf County, Florida (hereinafter referred to as the "First Amendment"); and

WHEREAS, the Protective Covenants provide that it may be amended during the first 20 year period by instrument signed by not less than ninety percent (90%) of the Lot Owners; and

WHEREAS, the Declarant and those Lot Owners/members who have executed the Joinders attached hereto desire to amend the Protective Covenants to provide for additional easements, restrictions, covenants and conditions, which shall be binding and run with the land subject to the Protective Covenants, the First Amendment and this Second Amendment and to all Lot Owners owning an interest in such property, including the easements, restrictions, covenants and conditions deemed necessary by the Lot Owners in order to account for the sale of Fractional Estates (as defined herein) in the property subject to the Protective Covenants, and any amendments thereto.

NOW, THEREFORE, in consideration of the hereinabove set forth premises, the hereinafter set forth terms and conditions and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Declarant hereby amends the Protective Covenants, and the First Amendment, and declares and provides as follows:

1. Article I, Section 4, of the Protective Covenants is hereby amended to now read in its entirety as follows:

Section 4. "Common Area" shall mean all real property (including the improvements thereto) managed or to be owned by the Association for the common use and enjoyment of the Owners. The Common Areas to be owned by the Association consists of that property described in Exhibit "A" attached to the Protective Covenants and amended by the First Amendment, and as may be further amended from time to time, less and except each of the Lots as hereinafter defined. Notwithstanding anything contained in the Protective Covenants, the First Amendment, or this Second Amendment to the contrary, the Common Area shall be transferred by the Declarant to the Association on or before all Lots to be established on the Properties are sold by the Declarant.

2. Article I of the Protective Covenants is hereby amended by adding a new Section 8, which reads as follows:

Section 8. "Fractional Estates" shall mean the ownership in fee simple of an undivided interest as a tenant in common with other Owners in a Lot. Notwithstanding the foregoing, no Fractional Estate may be sold that conveys less than a one-eighth (1/8) undivided interest as a tenant in common with other Owners in a Lot. Each Fractional Estate shall grant in the Owner the right to possess, use and occupy the Lot in which he has purchased an interest in, and any property developed thereon, during a particular period of time and the right to use the Common Areas during such time. A Fractional Estate is a time-share estate as defined in, and subject to, Chapter 721, Florida Statutes. The Fractional Estate shall be operated, maintained and managed by the Association pursuant to, and subject to, the terms and covenants provided in the Protective Covenants, the First Amendment, this Second Amendment, any separate declaration of covenants, conditions and restrictions made applicable to the Fractional Estate and any amendments thereto. In the event of a conflict between such declaration of covenants, conditions and restrictions for the Fractional Estates and the Protective Covenants, First Amendment, this Second Amendment or any Amendment thereto, then the Protective Covenants, First Amendment, this Second Amendment and any Amendment thereto shall control.

3. Article III of the Protective Covenants is hereby amended to now read in its entirety as follows:

Section 1. Every Owner of a Lot, or interest therein (including Owners of Fractional Estates) which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A shall be all Owners of a developed or undeveloped Lot in Barrier Dunes, or any interests therein (including Owners of Fractional Estates), except for the Declarant, and shall be entitled to one vote per undeveloped Lot or non-Fractional Estate developed Lot owned, or a percentage of one vote equal to that Owner's percentage of undivided interest in his Fractional Estate. All Owners of all Lots, except for Lots divided into Fractional Estate interests, shall vote their Lot in a collective manner of one vote per Lot. Owners of

Fractional Estate interests in a Lot shall be permitted to vote independently of all other Owners of Fractional Estates in the same Lot. However, in no event shall more than one vote be cast with respect to any Lot.

Class B. Class B is for the Declarant and the Declarant shall be entitled to three votes for each undeveloped Lot or non-Fractional Estate developed Lot owned by the Declarant and a vote equal to three times the percentage of undivided interest in a Lot owned by the Declarant for each Fractional Estate owned by it. The Class B membership shall be converted to Class A membership on the happening of either of the following events, whichever occurs first:

- (a) When the total votes outstanding in Class A membership equal or exceed the total votes outstanding in the Class B membership; or
- (b) On August 5, 1990.

Section 3. Notwithstanding anything in this Article III to the contrary, all Owners shall vote in the manner provided herein for any matters relating to the Common Areas or any matters which affect all Owners. Matters which relate only to Fractional Estate Owners or individual Fractional Estate Lots (including any budget or expenses relating solely to those Fractional Estates) shall be voted and determined pursuant to any agreement among such Fractional Estate Owners or pursuant to any separate declaration of covenants, conditions and restrictions made applicable to those Fractional Estates.

4. The first sentence of Article IV, Section 7, of the Protective Covenants is hereby amended to read as follows:

Section 7. Date of Commencement of Annual Assessments. Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the first Lot.

5. Article IV of the Protective Covenants is hereby amended by adding a new Section 11, which reads as follows:

Section 11. Expenses relating solely to Fractional Estates or any Lots divided into Fractional Estates shall be allocated to those Lots or Fractional Estates as provided in any agreement among the Fractional Estate Owners or any separate declaration of covenants, conditions and restrictions made applicable to the Fractional Estates. All such expenses relating solely to Fractional Estates, Fractional Estate Lots or which benefit only Owners of Fractional Estate interests in Lots shall be deemed an assessment pursuant to these Protective Covenants, thereby making such Fractional Estate Owners personally liable and subjecting their Fractional Estates to a lien, for their share of such expenses.

6. Article V of the Protective Covenants is hereby amended by adding the following language at the end thereof:

Notwithstanding anything contained in this Article V to the contrary, the Association shall obtain adequate insurance, including liability insurance and casualty insurance, for all of the Common Areas to the

extent available and deemed necessary by the Association, or as may otherwise be agreed to by its members. With respect to all such insurance, the Declarant, the Association, all members of the Association, and their mortgagees, as their interests may appear, shall be designated as additional loss payees. The premiums for such coverage and other expenses in connection with such insurance shall be deemed to be an expense for the maintenance of the Common Areas and included as an assessment for the maintenance of the Common Areas and provided for in these Protective Covenants.

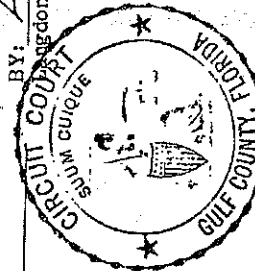
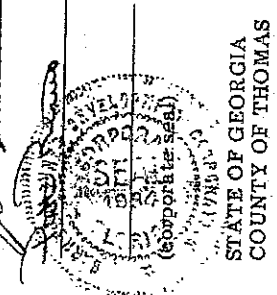
7. Article XVIII is hereby amended to add at the end thereof the following new section, which shall read as follows:

Section 5. Notwithstanding anything contained in the Protective Covenants, the First Amendment, or this Second Amendment to the contrary, including Article XVIII, Section 4 of the Protective Covenants, the Declarant may, but is not obligated to, add additional properties and improvements to the Common Areas, in its sole discretion without the consent of the Association or any Lot Owners. Upon such additional properties and improvements being added to the Common Areas, such properties and improvements shall be subject to the terms and conditions of the Protective Covenants and any amendments thereto. Such expansion of the Common Areas shall be accomplished by the Declarant notifying the Association in writing of the expansion.

IN WITNESS WHEREOF, the Declarant has called these presents to be executed and its seal affixed hereto, the day and year first above written.

[Signature]
BY: *[Signature]*
Langdon S. Flowers, Jr., President

BARRIER DUNES DEVELOPMENT CORPORATION, a Florida corporation



I HEREBY CERTIFY that on this day, before me, a Notary Public duly authorized in the state and county named above to take acknowledgments, personally appeared Langdon S. Flowers, Jr., to me known to be the person described as President of Barrier Dunes Development Corporation, a Florida corporation, and who executed the foregoing Second Amendment to the Protective Covenants, Conditions and Restrictions of Barrier Dunes, and acknowledged before me that the person executed the foregoing in the name of and on behalf of that corporation, and that he is duly authorized by the corporation to execute the foregoing on its behalf.

WITNESS my hand and official seal this 23rd day of January, 1988.

[Signature]
NOTARY PUBLIC
My Commission Expires: June 11, 1991

SSF:ProtectCov/gdw